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contract, and which he or any reasonable man might apprehend would follow from the breach.

*Corporations—Railroad Companies—Consolidation—Municipal Aid—Contract of Subscription—When Completed.—Pope v. Board of Com'rs et al.*, 51 Fed. Rep. 769.—This was a suit in equity before the U. S. Circuit Court involving a sum of money which had been voted by two townships in Lake County, Indiana, to aid railroad enterprises in that locality. The rights and relations of the various parties to the suit are somewhat complicated, but the essential facts are these: The board of county commissioners determined to take stock in the Chicago & Indianapolis Air Line Railroad according to the express wish of the tax-payers of the townships, and in their behalf. This railroad company never issued any stock, but the next year became consolidated with another organization known as the Louisville, New Albany & Chicago Railroad Company, which also failed to tender its stock to the county commissioners. The consolidation was made without the knowledge or consent of the tax-payers, and took place before the money in the controversy was collected. There was a State statute in force at the time the aid was voted, authorizing the consolidation of railroad companies, and expressly providing that the new company should acquire all the rights, property and functions of the constituent companies, and be subject to their liabilities. Whatever claim Pope, as receiver of a third company, had to the fund in controversy grew out of the rights of the companies named. The court held that under such a statute any one subscribing to a railroad corporation does so with the knowledge that a consolidation may occur, and impliedly authorizes the railroad company for whose stock he has subscribed to consolidate with any other railroad corporation. He is brought into the same contractual relations with the new company as he held with the original. The law enters as a silent factor into every contract. The general rule that the subscriber to the stock of a railroad company is released from his obligation to pay for stock by a fundamental change in the charter cannot be invoked in this case, for the change was made by the subscriber's implied consent. *Volenti non fit injuria* applies. *Board Com'rs Hamilton Co. v. State*, 4 N. E. Rep. 589, and 17 N. E. Rep. 855, which had been pressed upon the court as holding a contrary doctrine is referred to and explained. The case, however, was decided on another principle, and in favor of the tax-payers, it being well-settled in Indiana that a mere vote by a township of a sum to aid a railroad enter-

prise gives the company no legal right to or interest in the tax, until the tax has been collected, and a valid contract of subscription made in behalf of the township. Even if a railroad company after its consolidation has a contingent interest in a fund raised by municipal aid, it cannot assert any claim to the fund when it has not tendered its stock and has none that can be legally tendered.

*Appealable Judgment—State Supreme Court.—Meagher et al. v. Minn. Thresher Mfg. Co.*, 12 Sup. Ct. Rep. 879.—An appeal was taken to the U. S. Supreme Court on a judgment of the Supreme Court of Minnesota, affirming an interlocutory order overruling a demurrer, which judgment was apparently decisive of the merits of the case. The court held that this was not such a final judgment as to be subject to review by it no matter how decisive of the merits it might appear to be, and the writ of error was dismissed.

*Remedy by Mandamus—Certificates of Indebtedness.—Hopper v. Inhabitants of Union Township*, 24 Atl. Rep. 387.—This is a New Jersey case which, while founded on a local statute, has a general interest on account of the form of action which the court decided arose on that statute. The facts in the case are these: A private act of the legislature authorized the appointment of a board of commissioners to make local improvements in the Township of Union, especially in the way of grading, extending, and in other ways bettering the condition of a certain highway. This committee was, by the act, empowered to assess benefits and damages arising from its action in the matter, and if the benefits were found to be less in amount than the damages the deficiency was to be made up by the municipality. Such was the case. They accordingly issued, as they were authorized to do, certificates of indebtedness against the township to those to whom damages had been awarded. It was upon one of these certificates that the plaintiff sued. The court held that the proper form of remedy in this case was not by action at law, but in equity; saying, "The scheme of improvement projected by the act was a legislative scheme independent of the township authorities, prosecuted in the interest of, and at the expense of, the owners of the land fronting on the improvement. Nor did the supplement of 1875 make the certificates of indebtedness debts or obligations of the township on which an action at law \* \* \* would be a violation of the intent of the statute. \* \* \* The remedy of persons interested is not by action but by *mandamus*."